

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL MISCELLANEOUS JURISDICTION No.440 of 2016**

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Smt. Renu Devi

.... Appellant/s

Versus

Most. Nirmala Devi

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Akhilesh Kumar Sinha

For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER**

2 26-08-2016

Heard the learned counsel for the petitioner.

Perused the order dated 04.04.2016 passed by Sub Judge Ist, Aurangabad in Execution Case No.6 of 2009 whereby the Court below directed the petitioner to deposit the stamp duty and registration fee on the basis of the present market value of the suit property.

According to the learned counsel for the petitioner, agreement to sell was between the parties in the year 2005. The suit for specific performance of contract was filed by the plaintiff petitioner which was ultimately decreed by the lower appellate Court and to execute the decree, execution case has been filed. For registering the sale deed, stamp duty is payable by the petitioner according to the valuation of the agreement and not the present market value of the property.

The learned counsel relied upon a decision of this Court in

the case of *Smt. Shanti Devi Vs. State of Bihar 2001 (1) PLJR 671*. On the basis of this decision, the learned counsel submitted that the stamp duty and registration fee is to be paid on the basis of the valuation given in the agreement.

It may be mentioned here that by relying on this decision relied upon by learned counsel for the petitioner, a Division Bench of this Court in the case of *Brij Nandan Singh Vs. State of Bihar 2006 (3) PLJR 538* has taken the same view and the decision of *Shanti Devi (Supra)* has been approved.

So far these decisions are concerned, it may be stated that these decisions either relied upon by the learned counsel for the petitioner or the Division Bench decision of this Court are no longer good law as have already been impliedly overruled by the decision of the Hon'ble Supreme Court reported in *(2007) 14 SCC 339*.

Thus, I find no reason to interfere with the impugned order and accordingly, this Civil Misc. application is dismissed.

(Mungeshwar Sahoo, J)

Sanjeev/-

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